STATUTORY INSTRUMENTS

2017 No. 69

LOCAL GOVERNMENT, ENGLAND

The Combined Authorities (Mayors) (Filling of Vacancies) Order 2017

Made - - - - 27th January 2017

Coming into force in accordance with article 1

[F1]The Secretary of State makes the following Order in exercise of the powers conferred by sections 114(1) and 117(1A) of, and paragraph 3 of Schedule 5B to, the Local Democracy, Economic Development and Construction Act 2009 .

A draft of this instrument has been laid before, and approved by a resolution of each House of Parliament pursuant to section 117(2) of the Local Democracy, Economic Development and Construction Act 2009 [F2].

F1 2009 c. 20. Section 114 was amended by section 23 of, and paragraph 26 of Schedule 5 to, the Cities and Local Government Devolution Act 2016 (c. 1). Schedule 5B was inserted by section 2 of, and Schedule 1 to, the Cities and Local Government Devolution Act 2016. Section 117 was amended by paragraph 24 of Schedule 5 to the Cities and Local Government Devolution Act 2016.

F2 Section 117(2) was substituted by section 13 of the Localism Act 2011 (c. 20).

Modifications etc. (not altering text)

C1 Order applied (with modifications) (10.5.2021) by The West Yorkshire Combined Authority (Election of Mayor and Functions) Order 2021 (S.I. 2021/112), arts. 1(4), 35(1)(2), **Sch. 5 para. 58**

Citation and commencement

1. This Order may be cited as the Combined Authorities (Mayors) (Filling of Vacancies) Order 2017 and shall come into force on the day after the day on which it is made.

Interpretation

2. In this Order—

"the 2009 Act" means the Local Democracy, Economic Development and Construction Act 2009;

"combined authority" means a combined authority established under section 103(1) of the 2009 Act [F3];

"combined authority returning officer" has the same meaning as in article 2 of the Combined Authorities (Mayoral Elections) Order 2017 [F4];

"election petition" means a petition presented in pursuance of Part 3 of the Representation of the People Act 1983 [F5];

"local government elector" means a person registered as a local government elector in the register of electors in accordance with section 2 of the Representation of the People Act 1983 [F6]; and

"proper officer" has the meaning given by section 270(3) of the Local Government Act 1972 [F7].

F3 Section 103 was amended by sections 12 and 14 of the Cities and Local Government Devolution Act 2016.
F4 S.I. 2017/67.
F5 1983 c. 2.
F6 Section 2 was amended by section 1 of the Representation of the People Act 2000 (c. 2).
F7 1972 c. 70.

Filling of vacancies in the office of elected mayor

3.—(1) This Order applies where a vacancy in the office of elected mayor of a combined authority occurs before expiry of the mayor's term of office due to—

(a) the death or resignation of the mayor;

(b) the mayor's election being declared void; or

(c) the office being declared vacant.

(2) Where the vacancy occurs at least six months before the expiry of the mayor's term of office, it shall be filled at a by-election to be held on the day determined in accordance with article 6.

(3) Otherwise, it shall be filled at the election to be held on the day determined by reference to paragraph 2 of Schedule 5B to the 2009 Act.

Modifications etc. (not altering text)
C2 Art. 3(2) modified (7.4.2020) by The Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020 (S.I. 2020/395), regs. 1, **8**

Date on which vacancy occurs

4. For the purposes of this Order, a vacancy is to be taken to have occurred on—

(a) in the case of resignation, the date of the receipt of the notice of resignation by the person to whom the notice is required to be delivered [F8];

(b) in the case of death, the date of death;

(c) in the case of the mayor's election being declared void on the determination of an election petition, the date of—

(i) the expiry of the ordinary period allowed for making an application with respect to the report or certificate of the election court, or

(ii) if an application is made, the date on which it is finally disposed of or abandoned or fails because it is not prosecuted;

(d) the date on which the mayor's office is declared to have been vacated by the combined authority [F9], in any of the following circumstances—

(i) the mayor ceasing to be qualified to be a member of the combined authority;

(ii) the mayor ceasing to be a member of the combined authority by reason of failure to attend meetings([F10]); or

(iii) the mayor becoming disqualified for any other reason;

(e) where the mayor's office is declared to have been vacated by the High Court in proceedings for disqualification [F11], the date of—

(i) the expiry of the ordinary period allowed for making an appeal or application with respect to the decision of the High Court, or

(ii) if an appeal or application is made, the date on which it is finally disposed of or abandoned or fails because it is not prosecuted.

F8 The procedure for resignation of a member of a combined authority may be specified in an order made under section 104 of the Local Democracy, Economic Development and Construction Act 2009 – see, for example paragraph 1(9) of Schedule 1 to S.I. 2014/865.

F9 See section 86 of the Local Government Act 1972 as amended by paragraph 14 of Schedule 6 to the Local Democracy, Economic Development and Construction Act 2009.

F10 See section 85 of the Local Government Act 1972.

F11 See section 92(2)(a)(i) of the Local Government Act 1972.

Modifications etc. (not altering text)

C3 Art. 4 applied (with modifications) (8.5.2017) by The Greater Manchester Combined Authority (Transfer of Police and Crime Commissioner Functions to the Mayor) Order 2017 (S.I. 2017/470), art. 1(2), **Sch. 1 para. 58(2)**

Notice of a vacancy

5. The combined authority in which the office of mayor exists must give public notice of a vacancy and must take steps to give public notice in accordance with section 232 (public notices) of the Local Government Act 1972 [F12] as follows—

(a) in a case where the combined authority declares the office to be vacant, immediately after the declaration;

(b) in any other case, as soon as practicable after the date on which, by virtue of article 4, the vacancy is treated as occurring.

F12 Section 232 was amended by section 119 of and Schedule 6 to the 2009 Act.

Filling of vacancies: by-elections

6.—(1) Subject to paragraph (2), an election to fill a vacancy referred to in article 3(1) shall be held—

(a) in a case in which the vacancy arises because of the mayor's election being declared void or the mayor's office is declared to have been vacated, before the end of the period of 35 days beginning with the day on which the vacancy is be taken to have occurred (as determined in accordance with article 4);